

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM  
Section 7: Rio Brazos

**Subfile No. CHRB-006-0011**

**MOTION TO VACATE CONSENT ORDER**

COMES NOW the Plaintiff State of New Mexico, *ex rel.* State Engineer and moves the Court to vacate the Consent Order filed June 26, 2003 (Doc. 7179) in connection with defendant Frutosa Duran and subfile CHRB-006-0011 and as grounds therefore Plaintiff states as follows:

1. Frutosa Duran signed and approved a Consent Order in subfile CHRB-006-0011 that was filed with the Court on June 26, 2003. The State has determined that the tract of land mapped under this subfile was in fact part of a larger tract of land owned by Acencion LaBrier. The land owned by Frutosa Duran is another location, and the owner of that tract is now Thomas Gaylor. Frutosa Duran passed away in 2004. The State has recently sent a proposed revised Consent Order to Mr. Gaylor concerning this property and has mapped this tract of land under a new subfile, CHRB-006-0008A. The land originally mapped under CHRB-006-0011 is now included in subfile CHRB-006-0013 (Acencion LaBrier). The Consent Order filed June 26, 2003 in subfile CHRB-006-0011 should be vacated.

WHEREFORE, the Plaintiff State of New Mexico requests the Court to vacate the Consent

Order filed June 26, 2003 (Doc. 7179) in connection with defendant Frutosa Duran and subfile CHRB-006-0011.

Respectfully submitted,

/s/ Ed Newville  
EDWARD G. NEWVILLE  
Special Assistant Attorney General  
Office of State Engineer  
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Santa Fe, NM 87504-5102  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 5rd day of October, 2007 I filed the foregoing electronically through the CM/ECF system and served the following non-CM/ECF Participant in the manner indicated:

via first class mail, postage prepaid addressed as follows:

Thomas Gaylor  
P.O. Box 835  
Tierra Amarilla, NM 87575

Nelson Fresquez  
Veronica Byrd  
1805 Corte Adelina SW  
Albuquerque, NM 87105-6007

Acencion LaBrier  
HC 75, Box 24  
Tierra Amarilla, NM 87575

/s/ Ed Newville  
Edward G. Newville